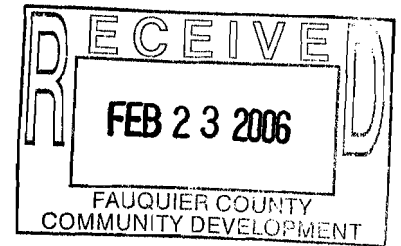




**ATTACHMENT 3**



***Statement of Justification***  
**Waiver of Zoning Ordinance Article 7-302.1.B**  
**(Private Street Limitations)**

**Owner/Applicant-Michael R. & Patricia Cackowski**  
**PIN 6971-04-5133-000**

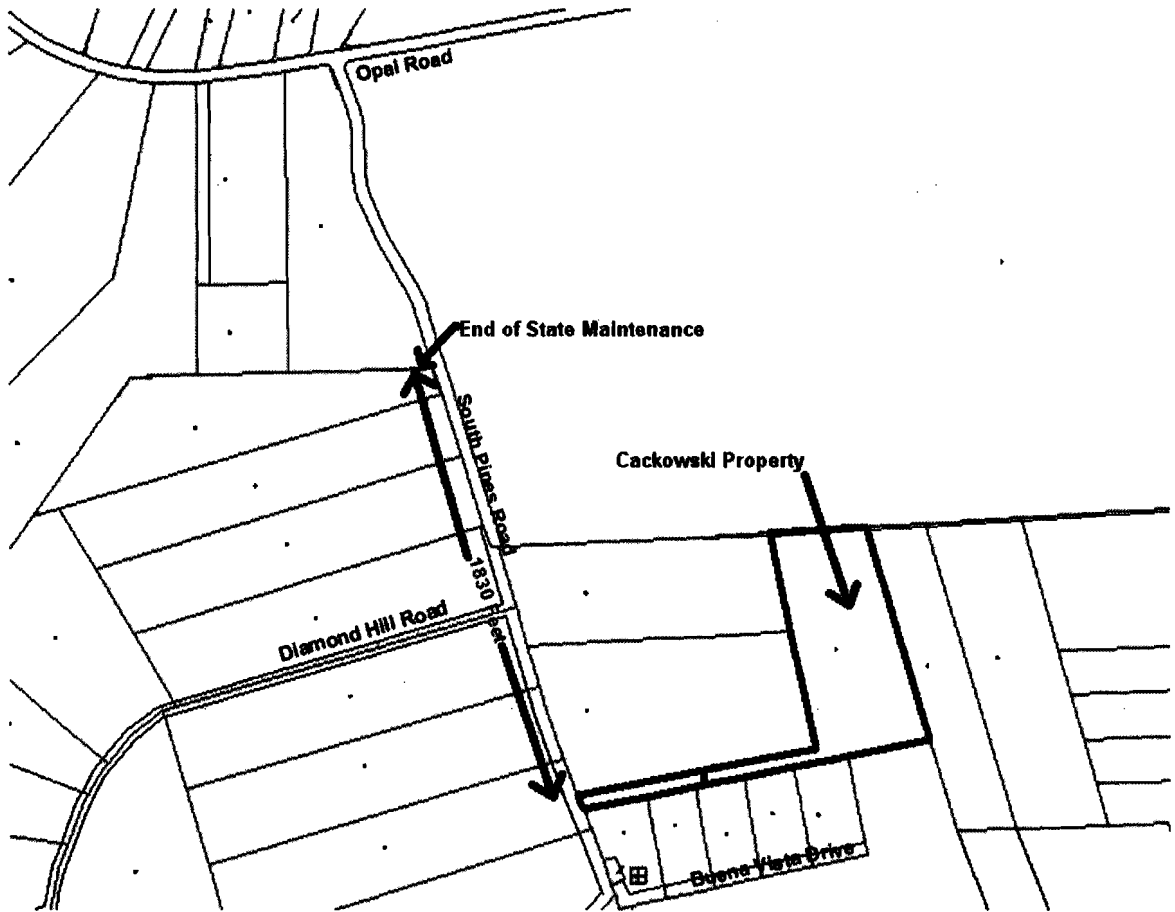
**Lee Magisterial District**  
**Fauquier County, Virginia**

In order to pursue a Family Transfer as provided in Section 2-39.3.A of the Fauquier County Subdivision Ordinance, the applicants are requesting a waiver of Article 7-302.1.B of the Fauquier County Zoning Ordinance - Private Street Limitations. The applicants wish to convey a 2.3509 acre parcel to their son via the proposed Family Transfer. The purpose of the Family Transfer is to allow their son to build an affordable residence in Fauquier County.

The Family Transfer is to be located on a proposed 50 foot wide ingress/egress easement that connects to South Pines Road. The connection point to South Pines Road is approximately 1830 feet from the end of State Maintenance on South Pines Road. Therefore, the proposed ingress/egress easement serving the Family Transfer lot does not connect directly to a state maintained road as required by Section 7-302.1.B of the Fauquier County Zoning Ordinance. However, the Zoning Ordinance provides that the limitation may be waived provided the applicant can show that no other remedy is realistically feasible, that plausible alternatives have been exhausted, that to not so modify the applicable limitation would place an unreasonable restriction on the property, and the properties through which access is planned will not be unreasonably affected.

The subject property is 10.85 acres. Due to the lot's pipestem configuration and the location of the surrounding lots, it has only 50 feet of frontage on South Pines Road. The lot's pipestem is approximately 980 feet in length, with the majority of the property located behind two (2) adjacent lots as shown in **Figure 1** below and on the Family Transfer Plat (**Attachment 1**). Therefore, the only realistic access to the proposed Family Transfer lot is via an extension of the pipestem that connects to the private portion of South Pines Road.

**Figure 1**

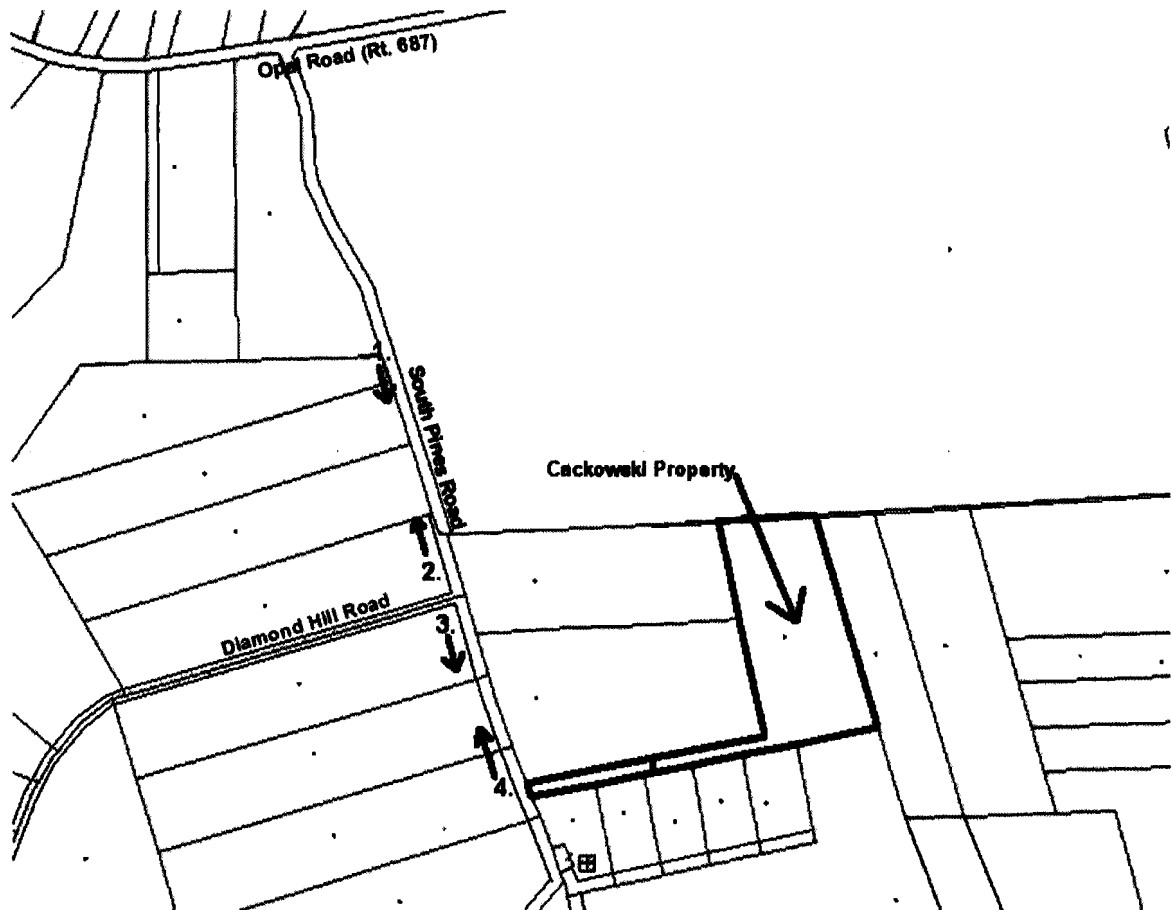


It is the applicants' understanding that in the mid-1990s VDOT planned to extend public maintenance of South Pines Road past their driveway entrance. Such an extension would have made the requested waiver unnecessary but it could not be implemented due to the refusal of several property owners to agree to requisite right-of way dedications. Given the current lack of public funding for secondary road improvements, it is unlikely that this plan will be revisited in the foreseeable future. Other plausible avenues really do not exist. The proposed Family Transfer is located  $\pm 1,830$  feet from the state maintained portion of South Pines Road. A direct connection to the publicly maintained portion of South Pines Road would require traversing the approximate 180 acre adjacent property to the north and would necessitate acquiring an easement from the owners of that property. Since that property is currently being evaluated for further by-right development potential, the owners are unwilling to consider such an easement at this time.

Fourteen (14) addressable structures are currently located on the non-maintained portion of South Pines Road with a traffic count of 140 vehicles per day. This represents 10 vehicle trips per day for each addressable structure or residence. One (1) additional single-family dwelling with an additional ten (10) vehicle trips per day would minimally affect the private street and its residents.

The private portion of South Pines Road is gravel and is currently in very good condition. A series of photographs depicting the private segment of South Pines Road have been included for the Planning Commission's review. These photographs were taken on January 17, 2006. **Figure 2** illustrates the location and direction in which the photographs were shot.

**Figure 2**



The first photograph was taken at the end of state maintenance towards Mr. Cackowski's lot. The second photograph is from the intersection of South Pines Road and Diamond Hill Road (private street) looking back towards the end of state maintenance. The third photograph is from the same location as photograph 2 looking south towards Mr. Cackowski's lot. Finally photograph 4 is taken from the Cackowski driveway looking back at the intersection with Diamond Hill Road.

**Photograph 1**



**Photograph 2**





**Photograph 3**



**Photograph 4**



As these photographs show, the private segment of South Pines Road is a sufficient travel way in very good condition. It has a gravel surface, approximately 20 feet in width, with adequate shoulders. In its current condition South Pines Road can easily manage the impact of an additional 10 vehicle trips per day that the proposed Family Transfer will produce.

Therefore, on behalf of the owner/applicant, we respectfully request that the Waiver of Article 7-302.1.B of the Fauquier County Zoning Ordinance be granted. The waiver should be granted based on the findings that:

1. No other remedy is realistically feasible,
2. All plausible alternatives have been considered,
3. The existing properties on South Pines Road will not be adversely impacted by the proposed waiver and subsequent Family Transfer,
4. Only one (1) additional dwelling unit accounting for an addition of ten (10) vehicle trips per day would be allowed, having minimal impact on the existing community, and
5. To not modify the limitation as requested would place a restriction on the property that is unreasonable.

If you have any questions or concerns regarding this application or the corresponding Family Transfer application, please do not hesitate to contact me. We thank you for your time and consideration in resolving this matter.

Respectfully,



Chuck A. Floyd, Planner  
Carson-Ashley, & Associates, LLC